



# **Headquarters Policy Flash**

**FLASH 2001-03**

DATE: February 2, 2001  
TO: Procurement Directors  
FROM: Office of Procurement and Assistance Policy, MA-51  
Office of Procurement and Assistance Management

SUBJECT: **Federal Small Business Developments**

SUMMARY: Two Executive Orders were issued last year dealing with increasing opportunities for small businesses to participate in the Federal Government's procurement programs. Also, Congress passed, and the President signed, the Small Business Reauthorization Act. The applicability of these documents to individual contracting actions must await their implementation in the FAR. However, contracting officers should be aware of the contents of these important documents and this Flash provides a summary of these documents.



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**Increasing Opportunities for Women-Owned Small Business - Executive Order 13157**

- ☞ This Executive Order (65 FR 34035) reaffirms and strengthens the Federal Government's commitment to increased opportunities for women-owned small businesses (WOSB). It stresses the need to meet or exceed a government-wide 5% participation goal for WOSBs and requires that an agency that fails to meet its annual goals for WOSB must develop an action plan to increase the likelihood that its goal still be met or exceeded in following years.
- ☞ Agencies are required to designate a WOSB advocate and to prepare a long term comprehensive strategy to expand opportunities for WOSBs. The headquarters Office of Small and Disadvantaged Business Utilization (OSDBU) has the lead on both of these items.
- ☞ Agencies are tasked to work with the Small Business Administration and the Office of Federal Procurement Policy to increase compliance by prime contractors with subcontracting plans.
- ☞ Agencies must also:
  - include WOSB in competitive solicitations to the maximum extent possible;
  - ensure that acquisition planners structure acquisitions to facilitate competition by and among small businesses;
  - implement mentor protégé programs which include WOSBs; and
  - offer outreach, training, and technical assistance programs for WOSBs.

In support of this Executive Order, DOE has entered into a Memorandum of Understanding with 15 Woman Business Organizations to maximize the participation of WOSBs in DOE contracting, R&D programs, financial assistance programs, and innovative science and technology programs. The MOU is designed to:

- promote awareness of and use of WOSBs in DOE program offices, field offices, and its network of national laboratories and facilities;
- increase the participation of WOSBs in DOE outreach activities;

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- better prepare WOSBs to compete for R&D contracts and technology transfer programs
- promote the participation of WOSBs in small business contracting and other opportunities of the department; and
- increase the involvement of WOSBs in DOE's science and technology mission.

**Increasing Opportunities and Access for Disadvantaged Businesses - Executive Order 13170**

- ☞ This Executive Order (65 FR 60827) reaffirms and strengthens the Federal Government's commitment to increased opportunities and access for small disadvantaged business (SDB). It stresses the need to meet or exceed a Government-wide participation goal for small business concerns of not less than 23%; encourages a goal of 5% for SDBs; and requires a goal for awards to section 8(a) firms.
- ☞ Agencies are required to designate an individual to carry out the Executive Order and must prepare a long-term comprehensive plan to expand opportunities and access for SDBs. Agencies must also submit to the President an annual assessment of their efforts to increase the use of 8(a)s, SDBs and MBEs. The headquarters OSDBU has the lead on three items.
- ☞ Agencies must also:
  - aggressively seek to ensure that 8(a)s, SDBs, and MBEs are aware of future contracting opportunities;
  - ensure that information regarding sole source contracts awarded through the 8(a) program receives the widest dissemination possible to 8(a)s;
  - use the SDB price evaluation preference (sic) programs to the maximum extent permitted by law. We believe that this section of the Executive Order is actually intended to reference the price evaluation adjustment program for SDBs rather than the price evaluation preference program for HUBZone firms (see FAR 19.000(a)(8));
  - aggressively use 8(a) firms, particularly in the development stages of a program;

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- seek to increase compliance by prime contractors with subcontracting plans;
- encourage the establishment of business-to-business mentoring and teaming arrangements, including mentor-protégé programs;
- offer information, training, and technical assistance to 8(a)s and SDBs; and
- ensure that acquisition planners structure acquisitions to facilitate competition by 8(a)s and SDBs.

☞ Federal advertising contracts are to be structured as commercial acquisitions consistent with Part 12 of the FAR. Agencies are to take an aggressive role in ensuring substantial minority-owned entities' participation in such contracts. Agencies must also ensure substantial 8(a), SDB, and MBE participation in procurements for and related to information technology.

☞ Contracts that are proposed to be bundled must be submitted to SBA (see FAR 19.202-1(e)(1)(iii) for current procedures).

DOE has entered into a Memorandum of Understanding with the Minority Business Summit that supports this Executive Order. DOE will use the MOU to help maximize the participation of Minority Business Concerns (MBC) in DOE contracting, R&D programs, financial assistance programs, and science and technology programs. The MOU is designed to:

- promote awareness of and use of MBCs in DOE program offices, field offices, and its network of national laboratories and facilities;
- increase the participation of MBCs in DOE outreach activities;
- better prepare MBCs to compete for R&D contracts and technology transfer programs;
- promote the participation of MBCs in small business contracting and other opportunities of the department; and
- increase the involvement of MBCs in DOE's science and technology mission.

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**Small Business Reauthorization Act of 2000 -- Public Law 106-554 dated 12/21/2000**

Before the following legislative changes can become effective, SBA must issue regulations and those regulations must be implemented in the FAR. Specific guidance will be issued when the FAR adopts the SBA regulations.

- ☛ The legislative authority for the following programs is extended:
  - SBIR through September 30, 2008;
  - Drug-Free Workplace (renamed the "Paul D. Coverdell Drug-Free Workplace Program) through September 30, 2003;
  - Very Small Business Concerns through September 30, 2003; and
  - Socially and Economically Disadvantaged Business through September 30, 2003
- ☛ Section 803 of the Act revises the treatment of small business concerns owned and controlled by service-disabled veterans and small business concerns owned and controlled by veterans in subcontracting.
- ☛ The statute, when implemented, allows set-asides for WOSBs if
  - ☛ the acquisition involves an industry which SBA has identified as one in which WOSBs are under-represented;
  - ☛ the acquisition is under \$5,000,000 for manufacturing or under \$3,000,000 for all others; and
  - ☛ the concern is certified as a WOSB or self certifies to the contracting officer and provides adequate documentation.

For further information on this Flash contact Ed Lovett at (202) 586-~~8~~257 for questions related to these two Executive Orders.

  
Gwendolyn S. Cowan, Director

cc: PPAG Members